IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17023 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHCHANDRA KANTILAL SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 17023 of 2004

MR RAMESH K SHAH for Petitioner No. 1

Mr.K.P.Raval,GOVERNMENT PLEADER for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 24/02/2005

ORAL JUDGEMENT

Rule. Mr.Raval, Ld.AGP waives service of rule on

behalf of respondents. With the consent of learned advocates for parties matter is taken up for final hearing today.

2. Upon hearing the learned counsel for the parties and the perusal of the impugned order, dated 30/11/04 passed by the Collector of Stamps shows that no reasons, whatsoever, are mentioned by the Collector as to why he is treating the document of release deed as sale deed or there is difference in the valuation in comparison to the notice issued earlier or the other aspects on the basis of which the objections raised by the petitioner are rejected. There can not be any dispute on the point that the Collector while exercising power of assessing the stamp duty which is short-paid he is exercising power of quasi judicial authority. It may not be necessary for the quasi judicial authority to deal with each and every contention which may be raised. However, it is required for such quasi judicial authority to record reasons which has weighed with it for passing final order. Recording of such reasons are required for observance of principles of natural justice as well as for enabling the higher forum to have a proper judicial scrutiny of the order. As no reasons are recorded while passing the final order, I find that the order passed by the Collector without recording reasons can not be sustained in the eye of law and the matter deserves to be remanded to the Collector for giving hearing to the petitioner and to pass reasoned order thereafter.

3. In view of the above, the impugned order passed by the Collector of Stamps, dated 30.11.2004 is quashed and set aside with direction to the Collector to give opportunity of hearing to the petitioner and thereafter to pass order in accordance with law by recording reasons.

The aforesaid exercise shall be completed within a period of four months from the date of receipt of writ of this court.

4. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

24.2.2005 (JAYANT PATEL,J)